

HR Tool Box

State
of
Vermont

Department
of
Human
Resources

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Editor:
Karin Pelletier

From the Commissioner - David K. Herlihy

Greetings to all HR Partners:

I want to thank you all for your diligence and perseverance in these challenging times of rescission and an increasingly stormy State budget forecast. It appears that things will get worse before getting better. HR professionals are key resources to employees and management during these difficult times. Employees are understandably worried about their job security and management is struggling to find pockets of money, where none seem to exist, to help meet their target numbers. I encourage you to not only refer employees and management to EAP but to keep your own mental and physical well-being in mind as we trudge ahead. We have a long road ahead.

DHR Reorganization – Just a reminder about our new look in Montpelier

HR functions for all departments within Agency of Administration are now managed by a centralized unit within DHR comprised of Don Robbins, Margaret Loftus, Nancy Buttura, Lorna Carty, and Rita Rounds. Chris McConnell is the Director.

Rossie Conklin is now the Director of Recruitment and Classification, and all staff are at 144 State Street. Right now Recruitment is spending a great deal of staff time on reemployment efforts for employees affected by RIF.

Compensation was absorbed by the Administrative Services Division. All compensation issues, including exempt pay, hire-into-range requests, and market factor issues should be directed to Doug Pine at 110 State Street.

The HRIS Unit (Shelly Morton and Jenny Audet), is now a part of the Labor Relations Division. You would most likely be in contact with HRIS staff about personnel actions in HCM. HRIS Unit staff will continue to work out of 144 State Street.

CONTRACTS WITH RETIREES

Contracting is not a core function for most HR Partners, but there was a change to the SOV contracting rules announced in a 2008 update to Bulletin 3.5. Contracts with retired state employees during the year following their retirement from state service must now be approved by the Commissioner of Human Resources. The requirement is found in Section VII(C)(5) of Bulletin 3.5, which can be accessed at http://aoa.vermont.gov/sites/aoa/files/pdf/AOA-Bulletin_3_5.pdf.

Contracts with retirees tend to generate many questions among members of the general assembly. The review process with DHR will allow the Agency of Administration to be aware of all such contracts and ensure that questions about whether they are in the best interest of the State of Vermont are raised before they are signed. DHR will be publishing a new policy that will provide some guidelines to help distinguish proper contracts from possibly improper ones, and to set forth the procedure for seeking approval.

HR Partners are asked to make sure that agency leadership and business personnel are aware of this requirement and to be alert for such contracts that may slip through the cracks and be processed without proper approval. The requirement is for approval in advance, but if you see a retiree return as a contractor and the necessary approval has not been obtained, late notice to DHR would be better than no notice.

From the Commissioner Cont.

TOWN MEETING LEAVE LAW

Lastly, I wanted to send a reminder about the new law regarding employee leave to attend Town Meeting. The law, found at 21 V.S.A. § 472b, provides the following with regard to employees:

(a) Subject to the essential operation of a business or entity of state or local government, which shall prevail in any instance of conflict, an employee shall have the right to take unpaid leave from employment under this section or subsection 472(b) of this title for the purpose of attending his or her annual town meeting, provided the employee notifies the employer at least seven days prior to the date of the town meeting. An employer shall not discharge or in any other manner retaliate against an employee for exercising the right provided by this section.

As noted in an earlier note about this new law, because it's a designated holiday for State employees, it is not expected that there will be any noticeable effect on most departments/agencies. However, it may have an impact on a few departments that must maintain essential operations, even on holidays, such as law enforcement, corrections, institutions, etc. Under the provisions of this law:

- employees must request such leave at least seven calendar days in advance.
- only those employees who have been "... continuously employed by the same employer for a period of one year for an average of at least 30 hours per week." are eligible.
- the granting of such leave is subject to the essential operation of the department/agency, which shall prevail in any instance of conflict.
- not all town meetings occur on the designated State holiday. The term "annual town meeting" is not defined in the statute. However, it would appear that this law does NOT cover "special town meetings", but only the employee's annual town meeting.
- the leave would be unpaid unless the employee elects to use accrued annual leave not to exceed six weeks.

Advance Directives – Info for Employees

We have been asked to share this information with HR Partners so that it may be passed on to employees.

An Advance Directive is a written document, signed by an individual and two witnesses, that outlines the individual's wishes for medical treatment in the future when he or she no longer can (or wishes to) make decisions about what to do. It is what many people think of as a "living will," or a "durable power of attorney for healthcare." Advance Directives are another tool for employees to use to help plan for life's uncertainties.

Governor Douglas—in his weekly press conference last week—issued a Proclamation for Advance Directives, declaring the week of December 22nd as "Advance Directive Week."

Today, we are all very aware of the possibilities for extending or prolonging life through a variety of interventions, drugs and treatments. These types of "quality of life" decisions are deeply personal and based on an individual's own values and beliefs.

While it is difficult to begin discussions with family or close friends about what we would want in critical care or end-of-life situations—particularly when you are healthy—it is something we all should consider.

Regardless of age or current health condition, none of us can predict the future or foresee every possible circumstance that might arise. Medical emergencies, illness and accidents happen. Perspectives can also change as we age or acquire chronic or intermittent conditions that might restrict our enjoyment of life.

Thinking about, communicating, and writing down, your values and preferences about care decisions at the end-of-life are a way to ensure that your wishes will be honored should you be unable to speak for yourself. Advance Directives are an effective and widely recognized way to do this.

In addition to completing an Advance Directive and sharing it with loved ones and health care providers, you may also wish to consider registering your Advance Directive with the Vermont Advance Directive Registry. The registry was established in 2007 through the Department of Health as an on-line database for storing copies of the Advance Directive forms. It is a secure and easy way to give health care providers immediate access to your wishes about health care decisions and treatments.

For information about Advance Directives and to obtain the current Advance Directive form, visit the Vermont Ethics Network (VEN) at www.vtethicsnetwork.org. VEN is a local, non-profit organization committed to increasing awareness and understanding of ethical issues, values and choices in health and health care. For information about the Vermont Advance Directive Registry, visit www.healthvermont.gov/vadr.

Labor Relations

ADA Amendments Act (ADAAA) - Important Changes!

On September 25, 2008, the ADA Amendments Act (ADAAA) was signed into law. The law will take effect on January 1, 2009. The Act retains the ADA's basic definition of "disability" as an impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment. Under the ADAAA, the definition of disability is to be "construed broadly." Most significant is that the Act modifies how key terms are to be interpreted.

Key provisions of the ADAAA include:

- "Substantially limits" no longer means that an individual's impairment *prevents or severely restricts* a major life activity. The Act requires that the EEOC revise its regulations to clarify that "substantially limits" means "significantly restricted" or more serious than a moderate impairment.

Additionally, an impairment that substantially limits one major life activity need not limit any other major life activities.

- "Major life activity" is now includes specific examples of major life activities - "caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, and working."

Per the ADAAA, major life activity is further expanded to include "major bodily functions," such as "functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions."

- Mitigating measures other than "ordinary eyeglasses or contact lenses" shall not be considered in assessing whether an individual has a disability. Qualified, employees must be provided a reasonable

accommodation even if they are fully able to perform their job duties while, for example, taking medication or using prescribed medical devices.

- Impairments that are episodic or in remission are disabilities if they would substantially limit a major life activity when active. Episodic impairments that occur every two to four months are frequent enough to be covered.
- An individual subjected to an adverse employment action (e.g., failure to hire) because of an actual or perceived impairment will presumptively meet the "regarded as" definition of disability. However, conditions that are BOTH *minor* AND *transitory*, lasting six months or less are excluded from "regarded as" claims.

Employers are not required to provide reasonable accommodations to employees who are only "regarded as" having a disability.

Requests for accommodation received prior to January 1, 2009 will technically be covered by the current and pre-ADAAA standards – however, you are advised to consider the new and broader ADAAA standards immediately.

It would seem likely, given the less demanding standard to determine whether a person is a qualified individual with a disability, we will see an increase in the number of employees and applicants who will be entitled to reasonable accommodations.

The ADAAA makes no changes to other applicable employment laws such as FEPA, FMLA, etc. or State policies.

Contact the DHR Labor Relations Division if you have questions about the ADAAA:

Karin Pelletier: 828-2972

John Berard: 828-3454

Family and Medical Leave Act Amendments

See the DOL Fact Sheet on the updates to FMLA (including providing Military Family Leave) at:

<http://www.dol.gov/esa/whd/fmla/finalrule/factsheet.pdf>

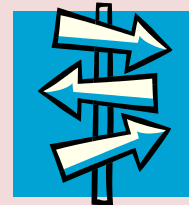
Contact DHR Labor Relations with any questions.

Associated Class Eligibility Determination Process For Reduction-In-Force (RIF) Purposes

1. **BACKGROUND:** The Reduction in Force articles of the collective bargaining agreements provide an opportunity for horizontal displacement into associated classes (within the same series of associated classes) where those classes exist, and where the employee meets the minimum qualifications of the other associated class(es). To be considered for horizontal displacement rights, the contract requires the incumbent to seek designation from the Department of Human Resources (DHR) prior to being notified of any impending layoff.
2. **PROCESS:** The employee must make his or her request for RIF Associated Class eligibility determination in writing (by letter, pink mail or email) to the DHR Director of Recruitment and Classification. The request must contain the following information:
 - a. The employee's name and employee ID number;
 - b. The employee's job title (including the Associated Class);
 - c. The employee's position number, pay grade, and employing department;
 - d. The employee's email or mailing address;
 - e. A list of those associated classes, within the employee's same series of associated classes, for which the employee is requesting eligibility determination.

3. For eligibility to be determined, the employee must ensure that an updated, on-line, State of Vermont employment application is on file with the Department of Human Resources.
4. The DHR Recruitment and Classification Director will review the employee's updated, on-line application and determine which, if any, of the other Associated Classes, within the employee's job series, the employee is qualified for, based on the pertinent minimum qualifications.
5. The DHR Recruitment and Classification Director will notify the employee of the determination, and will provide the information to the DHR Labor Relations Division for use in determining eligibility for horizontal displacement in the event of a Reduction in Force.

For questions about the Associated Class eligibility determination process, please contact Rossie Conklin, DHR Director of Recruitment and Classification at 828-1509 or rossie.conklin@state.vt.us.



For more general information on Reduction-in-Force (RIF),
see the Q & A at:

<http://www.vermontpersonnel.org/htm/pdf/RIFFAQ.pdf>

SAVE THE DATE!

HR PARTNERS Quarterly Meeting
January 22, 2009
1:00 – 4:00
Hazen's Notch, The Summit
Waterbury

Tentative Agenda:

- ADAAA Interpreting and Implementing the new regulations
- FMLA Interpreting and Implementing the new regulations
- Integrated Prevention Services (IPS) Introduction
- Summit Happenings

RIF INFO FOR EMPLOYEES

This section is a reminder about important information to be communicated by HR Administrators to employees who have been notified that their position is subject to a Reduction-in-Force (RIF).

REEMPLOYMENT RIGHTS – Once you receive your official written RIF notice, you should contact Rossie Conklin, Department of Human Resources Recruitment Services Director at 802-828-1509 as soon as possible to set your parameters for reemployment. Setting of parameters includes determining what locations, pay grade, job classes and departments you will consider for reemployment. When your parameters are set, the Recruitment Division will notify you of any job vacancies that meet those parameters. Your reemployment rights will last for two years, or until you refuse three offers of reemployment that met your parameters.

LEAVE BALANCES – Following is information regarding how the RIF affects your leave balances.

Annual Leave –

- You may have your leave paid off at the time of separation, up to 160 hours (20 days).
- You also have the option to bank up to 80 hours (10 days) for four months after the date of separation.
- If you are not reemployed within four months, your banked annual leave will be paid to you.
- If you are reemployed, any unused and unpaid annual leave balance will be restored.

Sick Leave –

- Your sick leave balance will not be paid to you.
- If you are reemployed under the reemployment provisions of the collective bargaining agreement, your sick leave balance will be restored.

INSURANCE BENEFITS – You should contact Jerry Fry, 802-828-3455, or Ann Carver, 802-828-0648, Department of Human Resources Employee Benefits Division, regarding questions about your Health, Dental and Life Insurance benefits.

Health Insurance –

- Your health insurance coverage will cease unless you take action before the close of the pay period in which you are separated.
- You may stay in the medical plan for two years after separation.
- You must pay the 20% premium for the first six pay periods.
- After the first six pay periods you must pay the full 100% premium.
- If you become reemployed, you may rejoin the medical plan, however, you must complete the necessary paperwork immediately upon reemployment to become enrolled in the plan.

Dental Insurance –

- Your dental insurance will stop at the end of the fourth pay period after the date of separation. COBRA is available to you.
- If you become reemployed, you may rejoin the dental plan, however, you must complete the necessary paperwork immediately upon reemployment.

Life Insurance –

- If you have life insurance, your benefits will end at the close of the last pay period that you worked.
- If you become reemployed, you may rejoin the life insurance plan, however, you must complete the necessary paperwork immediately upon reemployment.

OTHER INFORMATION – Following is additional information that may be helpful to you.

Employee Assistance Program (EAP) --

- EAP counselors are available to assist you during this transition by calling 1-888-834-2830.

Retirement –

- You should contact the Retirement Office at 802-828-2305 to discuss potential retirement options.

Vermont Department of Labor –

- You should contact the Vermont Department of Labor at 802-828-4000 to inquire about your eligibility for Unemployment Compensation.

RIF Q & A –

- Additional info regarding RIF may be found on the DHR website at <http://www.vermontpersonnel.org>.

Wellness Winter Activity Program

Last year the State Employees' Wellness Program conducted a survey to find out more about employees' interests. Over 3600 people completed the survey and the #1 request was to offer a winter activity program. You spoke; we listened!



From January 5-April 5, we will be running a winter challenge with *Get Moving Vermont!*. Set a goal, log your activity and embark on a virtual vacation through 11 tropical islands. Register today at www.getmoving.vermont.gov. Stay tuned for more details! Contact Sasha Kohnowich at 241-1563 for more information.



Wellness Welcomes Amy Lefevre!

Amy Lefevre joined us in Wellness on November 6th as our newest Health Educator! Amy comes to us from HealthFitness out of Hartford CT. Amy has extensive wellness experience including running biometric screenings, conducting educational sessions and flu vaccination programs. We are thrilled to have her join the team!

The Department of Human Resources

Office of the
Commissioner
110 State Street
Montpelier, VT
05620-3001

PHONE:
(802) 828-3491

FAX:
(802) 828-3409

We're on the Web!
See us at:

www.vermontpersonnel.org

EMPLOYEE ASSISTANCE PROGRAM

As the economic crisis bears down on the workplace, we'd like to remind our State of Vermont HR Partners of services that may be helpful as a resource in your daily work with supervisors and employees. As always, all our services are strictly confidential, and they are open to all classified State employees and their household members.

- **Supervisory Consultations** for an employee or the immediate supervisor of employees about challenging situations in the workplace;
- **Supervisory Referrals** for employees who may need EAP support to return to a previous level of performance;
- **Individual counseling** for any concern at all.
- **Financial and Legal** consultations;
- **Workshops** on a wide array of topics;
- **Web-based resources** and tools at www.vtstate.investeap.org , password: **vteap**.

EAP Numbers to Remember:

State Employee Call-in line: 888-834-2830, available 24/7
Administrative number: 888-392-0050

This is the best way to reach Myra Handy directly for a Supervisory Consultation, to request a workshop or for any other management need.

